
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

LARRY W. TURNER, JR.,

Plaintiff,

v.

NATIONAL RESPONSE
CORPORATION *et al.*,

Defendants.

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CIVIL ACTION NO. 1:12-CV-64

**MEMORANDUM AND ORDER OVERRULING OBJECTIONS AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

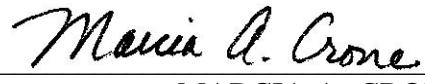
Plaintiff Larry W. Turner (“Turner”) originally filed this on-the-job injury lawsuit in the 356th Judicial District Court of Hardin County, Texas, alleging negligence pursuant to the Jones Act, and negligence and unseaworthiness pursuant to general maritime law. (Doc. No. 1, Ex. B) (initial pleading). On February 10, 2012, Defendant Strad Energy Services USA Ltd. (“Strad”) filed a “Petition for Removal” to this Court on the grounds that the Court had original jurisdiction under 43 U.S.C. § 1349(b)(1) (Outer Continental Shelf Lands Act), and that Turner fraudulently pled he was a Jones Act seaman. (Doc. No. 1.) On March 12, 2012, Turner filed his “Motion to Remand” (Doc. No. 26), in which he argued that remand is required because: (1) he brought a plausible Jones Act case in state court, and (2) this Court lacks subject matter jurisdiction. Thereafter, the Court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge, for pretrial management pursuant to an Order of Reference entered on May 20, 2012. (Doc. No. 39.)

On August 17, 2012, the United States magistrate judge filed his report (Doc. No. 47) recommending that the Court grant Turner’s motion for remand. Strad filed objections (Doc.

No. 48) to the report and recommendation on August 31, 2012. Pursuant to these objections, the Court has conducted a de novo review of the magistrate judge's report and recommendation. *See* Fed. R. Civ. P. 72(b)(3). After careful consideration, the Court concludes that the magistrate judge correctly determined that Turner's motion to remand was timely filed, that Turner has shown a possibility of establishing a Jones Act claim on the merits, and that this case should be remanded. Consequently, Strad's objections are without merit.

It is **ORDERED** that Strad's objections (Doc. No. 48) are **OVERRULED**, the report of the magistrate judge is **ADOPTED**, and Turner's "Motion to Remand" (Doc. No. 28) is granted. This action is remanded to the 356th Judicial District Court of Hardin County, Texas.

SIGNED at Sherman, Texas, this 10th day of September, 2012.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE